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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/043,657

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Jeff Skillern

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LEIGH P. GREGORY

PO BOX 168

CLEMSON, SC 29633-0168

EXAMINER

VANTERPOOL, LESTER L

ART UNIT

PAPER NUMBER

3782

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/043,657	Applicant(s) SKILLERN, JEFF	
	Examiner LESTER L. VANTERPOOL	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 15-22, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 15-22, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 24, 2008 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13, 17, 27 & 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Greene (U.S. Patent Number 6422032 B1).

Greene discloses flexible pouch (10) including the plurality of layers (18, 19, 20 & 21), wherein the plurality of layers (18, 19, 20 & 21) are all permanently joined together to form the inner compartment (25) (See Column 3, lines 26 – 33) (See Figures 2 & 6) and at least one outer compartment (25), wherein the inner compartment (See Figure 3) and the at least one outer compartment (25) are

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directly separated by the common layer (See Figures 2 & 3), at least one outer compartment (25) being at least partially filled with the thermal capacitance medium (i.e. freezable coolant), wherein the thermal capacitance medium (i.e. freezable coolant) is permanently sealed within the at least one outer compartment (25) (See Column 3, lines 26 – 33), and the at least one inner compartment (See Figure 3) for being filled with the liquid for consumption (See Column 3, lines 44 – 46) (See Column 4, lines 33 – 36).

Regarding claim 17, Greene discloses the medium consists of a cooling medium (See Column 4, lines 33 – 36).

Regarding claim 27, Green discloses the medium comprises the gel (See Column 4, lines 33 – 36).

Regarding claim 28, Green discloses at least one outer compartment (25) is formed on at least one side of the inner compartment (25) (See Figure 2 & 4).

4. Claims 13, 15, 16, 17 & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards (U.S. Patent Number 4324111).

Edwards discloses flexible pouch (10 & 50) including the plurality of layers (12 & 14), wherein the plurality of layers (12 & 14) are all permanently joined together to form the inner compartment (See Column 2, lines 35 – 36) (See Figures 1 & 3) and at least one outer compartment (See area between (42 & 44)

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in Figures 2 & 3), wherein the inner compartment (See Figures 1 & 5) and the at least one outer compartment (See area between (42 & 44) in Figures 2 & 3) are directly separated by the common layer (42), at least one outer compartment (See area between (42 & 44) in Figures 2 & 3) being at least partially filled with the thermal capacitance medium (40), wherein the thermal capacitance medium (40) is permanently sealed within the at least one outer compartment (See area between (42 & 44) in Figures 2 & 3) (See Column 2, lines 35 – 36), and the at least one inner compartment (See Figures 1 & 5) for being filled with the liquid (46) for consumption (See Figure 1).

Regarding claim 15, Edwards discloses the pouch (50) is formed by the first bag surrounded at least partially by the second bag (See Figure 5).

Regarding claim 16, Edwards discloses the pouch (10) is formed by the first sleeve surrounded at least partially by the second sleeve (See Figures 2, 3, & 6).

Regarding claim 17, Edwards discloses the medium consists of a cooling medium (See Column 2, lines 44 – 46).

Regarding claim 27, Edwards discloses the medium comprises the gel (40) (See Column 2, lines 44 - 46).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13, 19 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxer (U.S. Patent Number 4526298) in view of Edwards (U.S. Patent Number 4324111).

Boxer discloses the flexible pouch (78) including the plurality of layers (See Figure 7), wherein the plurality of layers (See Figure 7) are joined together to form the inner compartment (See interior area of (78) in Figure 7) and at least one outer compartment (See area between (82 & 84) in Figure 7), wherein the inner compartment (See interior area of (78) in Figure 7) and the at least one outer compartment (See area between (82 & 84) in Figure 7) are directly separated by a common layer (82), the at least one outer compartment (See area between (82 & 84) in Figure 7) being at least partially filled with the thermal capacitance medium (80), wherein the thermal capacitance medium (80) is within the at least one outer compartment (See area between (82 & 84) in Figure 7), and the at least one inner compartment (See interior area of (78) in Figure 7) for being filled with the liquid for consumption.

However, Boxer does not explicitly disclose the plurality of layers are all permanently joined together to form the inner compartment and at least one

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outer compartment and wherein the thermal capacitance medium is permanently sealed within the at least one outer compartment.

Edwards teaches the flexible pouch (10 & 50) including the plurality of layers (12 & 14), wherein the plurality of layers (12 & 14) are all permanently joined together to form the inner compartment (See Column 2, lines 35 – 36) (See Figures 1 & 3) and wherein the thermal capacitance medium (40) is permanently sealed within the at least one outer compartment (See area between (42 & 44) in Figures 2 & 3) (See Column 2, lines 35 – 36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the plurality of layers are all permanently joined together to form the inner compartment and at least one outer compartment and wherein the thermal capacitance medium is permanently sealed within the at least one outer compartment as taught by Edwards with the hydration system of Boxer in order to prevent the liquid from leaking.

Regarding claim 19, Boxer discloses the conduit (48) having the inlet (50) and the outlet (54), the inlet (50) being in fluid communication with the inner compartment (See interior area of (78) in Figure 7) for drinking fluid.

Regarding claim 20, Boxer discloses the valve (56) at the conduit outlet (54).

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7. Claim 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (U.S. Patent Number 4324111) in view Chan (U.S. Patent Number 6474095 B1).

Edwards does not disclose the medium consists of the heating medium.

Chan teaches the medium (26) consists of the heating medium (See Column 3, lines 11 – 13) (See Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the medium consists of the heating medium as taught by Chan with the hydration system of Edwards in order to keep beverages such as tea warm.

8. Claims 21 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boxer (U.S. Patent Number 4526298) and Edwards (U.S. Patent Number 4324111) as applied to claim 20 above, and further in view of Motsenbocker (U.S. Patent Number 4420097).

Boxer discloses the pouch (78) and be wearable by a user (See Figure 1).

However, Boxer does not disclose the pack configured to receive the pouch and be wearable by a user.

Motsenbocker teaches the pack (12) configured to receive the pouch (14) and wearable by the user.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pack configured to receive the pouch

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and wearable by the user as taught by Motsenbocker with the hydration system of Boxer in order to enhance portable hands free transportation.

Regarding claim 22, Boxer discloses Boxer discloses the flexible pouch (78) including the plurality of layers (See Figure 7), wherein the plurality of layers (See Figure 7) are joined together to form the inner compartment (See interior area of (78) in Figure 7) and at least one outer compartment (See area between (82 & 84) in Figure 7), wherein the inner compartment (See interior area of (78) in Figure 7) and the at least one outer compartment (See area between (82 & 84) in Figure 7) are directly separated by a common layer (82), conduit (48) having the inlet (50) and the outlet (54); wherein the at least one inner compartment (See interior area of (78) in Figure 7) for being filled with a drinking fluid, wherein the at least one outer compartment (See area between (82 & 84) in Figure 7) is at least partially filled with the thermal capacitance medium (80), wherein the thermal capacitance medium (80) is within the at least one outer compartment (See area between (82 & 84) in Figure 7), wherein the conduit (48) inlet (50) is in fluid communication with the compartment (See Figure 5) for drinking fluid, and the outlet (54) is capped by the valve (56), wherein the drinking fluid compartment is in fluid communication with the sealable opening (62) for filling the drinking fluid compartment.

However, Boxer does not explicitly disclose the plurality of layers are all permanently joined together to form the inner compartment and at least one

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outer compartment and wherein the thermal capacitance medium is permanently sealed within the at least one outer compartment.

Edwards teaches the flexible pouch (10 & 50) including the plurality of layers (12 & 14), wherein the plurality of layers (12 & 14) are all permanently joined together to form the inner compartment (See Column 2, lines 35 – 36) (See Figures 1 & 3) and wherein the thermal capacitance medium (40) is permanently sealed within the at least one outer compartment (See area between (42 & 44) in Figures 2 & 3) (See Column 2, lines 35 – 36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the plurality of layers are all permanently joined together to form the inner compartment and at least one outer compartment and wherein the thermal capacitance medium is permanently sealed within the at least one outer compartment as taught by Edwards with the hydration system of Boxer in order to prevent the liquid from leaking.

However, Boxer does not disclose the pack including the housing portion and straps, the valve being the bite-valve articulable by the jaws of a user, and wherein the flexible pouch is receivable within the housing portion of the pack.

Motsenbocker teaches the pack (12) including the housing portion (See Figures 2 & 3) and strap (38) (See Figure 1), the valve (20) capable of being the bite-valve articulable by the jaws of a user, and the wherein the flexible pouch (14) is receivable within the housing portion (See Figures 2 & 3) of the pack (12).

It would it would have obvious to one having ordinary skill in the art at the time the invention was made to make the pack including straps, since it has been

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held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis.*, 193 USPQ 8.

Response to Arguments

9. Applicant's arguments with respect to claims 13, 15, 16, 17, 18, 19, 20, 21, 22, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spitler (U.S. Patent Number 5005374) and Fuchs (U.S. Patent Number 6925834 B2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LESTER L. VANTERPOOL whose telephone number is (571)272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.
/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782
Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lester L. Vanterpool/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782

